

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BILL MAX OVERTON,	:	NO. 1:11-CV-00591
	:	
Plaintiff,	:	
	:	
vs.	:	<b>ORDER</b>
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 2).

Proper Notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. United States v. Walters, 638 F.2d 947 (6<sup>th</sup> Cir. 1981). As of the date of this Order, no objections have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation thorough, well-reasoned, and correct.

Accordingly, the Court hereby ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation (doc. 2) in all respects, and DENIES Plaintiff's motion for leave to proceed in forma pauperis. The Court further GRANTS Plaintiff thirty (30) days from the date of this Order to pay the required filing fee of \$350.00 or to submit an affidavit showing his income, assets, and

debts such that he is unable to provide himself and his family with the necessities of life and still have sufficient funds to pay the full filing fee of \$350.00 in order to institute this action. Adkins v. E.I. Dupont De Nemours & Co., Inc., 335 U.S. 331, 339 (1948). Plaintiff's Complaint will not be deemed "filed" until the appropriate filing fee is paid or he is granted leave to proceed in forma pauperis. Truitt v. County of Wayne, 148 F.3d 644, 648 (6<sup>th</sup> Cir. 1998). Plaintiff is advised that should he fail to pay the filing fee or submit an affidavit in support of his application to proceed in forma pauperis within the thirty (30) day time limit, this matter will be closed.

SO ORDERED.

Date: September 30, 2011 /s/ S. Arthur Spiegel  
S. Arthur Spiegel  
United States District Senior Judge